THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2290 of 1999

ORAL ORDER:

It appears, petitioners 1 and 2 while working with the National Institute of Small Industry Extension & Training, Yousufguda, Hyderabad on introduction of Voluntary Retirement Scheme (VRS) on 13.11.1996, have opted for VRS on 15.11.1996 and ultimately they had retired from service with effect from 24.10.1998. Now the only grievance of the petitioner is that while making them to retire with effect from 24.10.1998, they were not paid three months salary in lieu of notice period.

The facts are not much in dispute. In fact, when a representation made by the petitioners seeking three months salary in lieu of notice period, they were informed through Office Memorandum No.2(16)68/B&A/Vol.III/1385 dated 20/21.10.1998 that "*The voluntary retirement scheme being a voluntary option exercised by the interested employees, it was the employee who was required to give three months notice and not vice versa. Owing to administrative exigencies the undersigned being empowered in this regard has chosen to waive the shortfall in notice period liable to be given by you. Such a gesture cannot be faulted either on the basis of terms and conditions of appointment or on the basis of terms and conditions governing voluntary retirement scheme".* Therefore, the present writ petition is filed.

In this regard, it is appropriate to notice clause (6) of the voluntary retirement scheme introduced vide Office Memorandum No.2(16)/68/B&A/Vol.III dated 14.8.1998 issued by the Principal Director, National Institute of Small Industry Extension & Training, Government of India Society, Yousufguda, Hyderabad, which reads as under:

> "The terminal payments available to an employee who is granted voluntary retirement under the scheme would be:

(a) Balance in his/her EPF account as per EPF regulations.
(b) Cash equivalent of accumulated EL as per rules applicable.
(c) Gratuity under DCRG scheme applicable to employees of institute.

In the entire scheme, it is not mentioned that the persons who opted voluntary retirement would be entitled for three months salary in lieu of notice period. In fact, it is the petitioners who opted for voluntary retirement and they were supposed to give three months notice, whereas the petitioners are claiming three months salary as if the management wanted them to exercise voluntary retirement compulsorily.

However, in this regard, the learned counsel for petitioners relied upon the judgment rendered by this Court in W.P.Nos.8952 and 20689 of 1995 dated 11.7.1997, which was the subject matter of W.A.Nos.1061 and 1082 of 1997 in the case of HINDUSTAN SHIPYARD LIMITED, REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR AND ANOTHER v. SUSARLA NAGABHUSHANA RAO AND OTHERS[1]. In that case, petitioners sought permission of the respondents not to deduct notice pay out of the amount payable to them under voluntary retirement scheme. In fact, under the scheme framed thereunder, clause (4) deals with said aspect. The said clause (4) reads as under:

> "Benefits under the scheme; (A) An employee whose request for voluntary retirement is accepted will be entitled to the following benefits.
>
> (i) ……
> (ii) ……
> (iii) ……
> (iv) One month's notice pay for staff and workmen and 3 months notice pay for officers as per the respective service conditions".

Further, in the case relied upon by the learned counsel for

petitioner, the amounts which were already paid, were sought to be recovered. In the case on hand, there is no such provision under the scheme for giving one month's notice or three months salary in lieu of notice period. In fact, the petitioners opted for voluntary retirement scheme on 15.11.1996 and it was accepted on 10.10.1998 and they have retired from service with effect from 24.10.1998. The voluntary retirement scheme dated 14.10.1998 does not contemplate that the petitioners are entitled for three months salary in lieu of notice period. In fact, it is the petitioners who opted for voluntary retirement scheme and unless and until there is a provision providing three months salary in lieu of notice period, petitioners are not automatically entitled for such benefit. Therefore, I am of the opinion that the reply given by the respondents on 20/21.10.1998 that the voluntary retirement scheme being a voluntary option exercised by the interested employees, it is the employee who is required to give three months notice to the employer and not vice versa cannot be said to be either arbitrary or illegal.

For all the reasons, the writ petition is devoid of merits and liable to be dismissed and accordingly dismissed. No order as to costs.

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C.V.RAMULU, J

Date: 31.10.2007
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2290 of 1999

31.10.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.2290 of 1999

Date: 31st October, 2007

Between:

Faqruddin & others.

.. Petitioners

And

Secretary to Government of India,
Department of SSI & ARI and President of
Governing Council of NISIET, Udyog Bhavan,
Rafi Marg, New Delhi & others.

.. Respondents

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[1] 1998(1) ALD 195 (DB)